

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LBF TRAVEL, INC.,

Plaintiff,

v.

FAREPORTAL, INC. and WK TRAVEL, INC.

Defendants.

Case No. 13-CV-9143-(LAK)-(GWG)

USDC SDNY

DOCUMENT

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1. A conference was held on November 17, 2014 and was attended by:

Jura C. Zibas

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2. Concise Statement of the issues: LBF and Fareportal are direct competitors in the field of online travel services. LBF owns federally-registered TRAVELATION trademark and "www.smartfares.com" trade name and brand. Fareportal owns several trademarks including CHEAPOAIR and CHEAPSTAY, and "onetravel" trade name and brand. Both Fareportal and LBF engage in search engine marketing. LBF alleges that Fareportal is purchasing its trademarks and brands as Keywords for the purposes of Search Engine Marketing. In essence, Fareportal is paying Google and other search engines to use LBF's trademarks as advertising keywords. Fareportal has analogous claims against LBF in a separate action, captioned *Fareportal, Inc., et al. v. LBF Travel, Inc., et al.*, No. 13-CV-2412.

3. Schedule:

- a. Dates for document requests and initial interrogatories is 12/17/14.
- b. Names of non-expert witnesses expected at this time to be deposed and timetable for depositions to take place:

1. Michael Thomas on behalf of Plaintiff.
2. Awaiting Disclosure of Defendants' witnesses.
3. Depositions to be completed by 4/17/15.
- c. All non-expert discovery to be completed by 5/18/15.
- d. Disclosures of the identities and reports of experts required by Rule 26(a)(2) will be made by 7/17/15.

- e. Depositions of experts shall be completed by 8/17/15.
- f. Date pre trial motions will be filed or if no such motions will be filed, the date by which plaintiff will supply pretrial order materials to defendant is 9/30/15. The parties shall follow the rules of the assigned District Judge undersigned with respect to any pre-motion conference, filing or other requirements for dispositive motions.

- g. Date by which the parties will submit a joint pretrial order, if no request is made as stated in paragraph 3.f.
11/17/15, 9/30/15.

4. Since the parties are direct competitors, the parties agree to enter into a Protective Order. Such Protective Order will be submitted to the Court within 10 days of this conference. *The parties may extend this date by mutual agreement.*

5. The parties agree that this case does involve electronic discovery. Undersigned counsel agree to enter into a separate electronic discovery order for disclosure and preservation of electronically stored information, including without limitation the form in which data will be

produced, search terms to be applied in connection with the retrieval and production of such information and the location and format of electronically stored information. The parties have agreed that they shall be responsible for their own costs of assembling and producing such information. At this time, no other discovery issues are yet identified.

6. Anticipated expert testimony in the field of internet marketing *and damages.*

7. The parties' have both requested a jury trial. The anticipated length of trial is 5 days.

8. The parties have considered the desirability of attempting to settle the case before undertaking significant discovery or motion practice. The parties attempted to settle the Fareportal v. LBF case for several months. Thus, initial discovery disclosures and demands will need to be exchanged in order for the parties to engage in further settlement discussions. The

parties shall inform
~~plaintiff requests a mediation before~~ Magistrate Judge Gorenstein *when they are prepared to participate in a settlement conference.*

9. All discovery (including requests for admission and any applications to the Court with respect to the conduct of discovery) must be initiated in time to be concluded by the deadline for all discovery. Any application for an extension of time limitations herein must be made as soon as the cause for the extension becomes known to the party making the application and in accordance with this Court's Individual Practices. Any application not in compliance with this paragraph will be denied. To the extent a party expects to produce electronically stored information, the parties shall promptly discuss the protocols for the search and review of such material.

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Gabriel Gorenstein
Mag. Judge Gabriel Gorenstein

Nov 17, 2014